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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,650	04/02/2004	Sandra A. Strickland	52082/FLC/S1137	1055
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CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			EXAMINER NGUYEN, TRINH T	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/816,650	Applicant(s) STRICKLAND ET AL.	
	Examiner Trinh T. Nguyen	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE 9/12/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-13, 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

[Handwritten signature]

DETAILED ACTION

Continued Examination under 37 CFR 1.114 After Final Rejection

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/12/05 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation "a notch recess comprising two notch surfaces that are non-parallel to one another" as claimed in claim 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The limitation "a notch recess comprising two notch surfaces that are non-parallel to one another" as claimed in claim 21 does not have support in the specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 21: the phrase "a notch recess comprising two notch surfaces that are non-parallel to one another" is confusing since there is no support in the specification and thus it is not understood what is being claimed.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 5, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thaler et al. (US6378461).

For claim 1, Thaler et al. disclose an enclosed litter box, comprising:

a chassis (502) comprising two side walls, an end wall, and an end opening comprising an end edge;

a removable litter tray (20) comprising a first position, a second position, a first end and a second end slidably coupled to the chassis such that the first end is closer to the end wall of the chassis than the second end when the litter tray is in the first position inside the chassis before sliding to a second position;

a rake (41,43,44) comprising a raking end having a plurality of tines (43,44) and a handle end (41) wherein the raking end is located within the removable litter tray with the raking end closer to the end wall of the chassis than the end opening of the chassis when the litter tray is in the first position;

an enclosure (550,548) for enclosing the removable litter tray and rake and wherein the second position is characterized by the first end of the litter tray and the raking end of the rake both spaced apart from the end wall of the chassis.

As shown in Figure 28 of Thaler et al., it is noted that the litter tray (20) is in a first position (i.e., when the first end is closer to the end wall of the chassis than the second end, and when the raking end closer to the end wall of the chassis than the end opening of the chassis) inside the chassis and that a user can slidably pull litter tray (20) out of the chassis (502) into a second position (i.e., when the first end of the litter tray and the raking end of the rake both spaced apart from the end wall of the chassis) wherein the litter tray is partly outside of the chassis so that litter tray can be cleaned.

For claim 2, Thaler et al. disclose the removable litter tray further comprising an integral handle (173,175,177) having a downwardly facing opening.

For claim 5, Thaler et al. disclose the removable litter tray further comprising: a transverse groove (31,32,34) on an upper rim of a front portion of the removable litter tray; and an opening (31) between a bottom surface of the groove and an interior portion of the integral handle whereby a user may dislodge a handle portion of the manual rake held in the transverse groove.

For claim 8, Thaler et al. disclose an enclosed litter box, comprising:

a chassis (502) comprising two side walls, an end opening, and an end wall defining a receiving cavity;

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a slidably removable litter tray (20) comprising a tray cavity positioned within the receiving cavity of the chassis; said slidably removable litter tray comprising a groove defining a catch channel (31,32,34);

a rake (41,43,44) comprising a raking end having a plurality of tines (43,44) and a handle end (41) comprising a handle portion positioned within the removable litter tray such that the plurality of tines are located within the tray cavity while the handle portion is engaged to the catch channel;

an enclosure (550,548) for enclosing the removable litter tray and wherein the raking end of the rake is positioned proximate the end wall of the chassis and the handle portion is positioned proximate the end opening of the chassis.

For claim 9, Thaler et al. disclose the removable litter tray means further comprising a integral handle having a downwardly facing opening for use in pulling the removable litter tray from the chassis.

For claim 10, Thaler et al. disclose the plurality of tines (43,44) generally point in a first direction and the handle end (41) generally points in a second direction and wherein the first direction is perpendicular to the second direction (as shown in Figure 4 of Thaler et al., it is noted that the first direction is defined as a plane going through the center of handle end and continues into the page and that the second direction is defined as a plane going through the center of the tines and continues toward the label FIG. 4. Further note that the tines can be rotated until the first direction is perpendicular to the second direction).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6, 7, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US6378461) in view of Springer (US4858561) and Official Notice.

As described above, Thaler et al. disclose most of the claimed invention except for indicating an adhesive label having decorative motif on an outer surface of the enclosure.

Springer teaches a similar enclosed litter box as that of Thaler et al. in which Springer's box having an outer cover (12) covering the outer side of the box wherein the cover is attractive in appearance (equivalent to a decorative motif as claimed). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box of Thaler et al. so as to include an outer cover, in a similar manner as taught in Springer, since to do so would provide an additional protective means and thus protect the box from damaging.

Furthermore, it is noted that Springer's outer cover is being attached/adhered to the outer surface of the enclosure by fastener closures (24,26,28,30) but not adhesive. However, an Official Notice is taken that using adhesive to attach/adhere one structural member to another structural member is a well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have

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used adhesive to attach/adhere the outer cover to the outer surface of the enclosure, in light of the Official Notice taken, in order to provide an efficient bond between members and since it is well known in the art to substitute one type of attachment means for another depending on manufacturing requirements and cost constraints.

11. Claims 3, 4, 12, 13, and 21-23, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler et al. (US6378461) in view of Walter (US5713302).

As described above, Thaler et al. disclose most of the claimed invention except for indicating an enclosure having a notched recess/gravity lock groove and a notched blade scoop wherein the scoop is engaged to the notched recess/gravity lock groove.

Walter teaches a similar enclosed litter box as that of Thaler et al. in which Walter's box includes an enclosure having a notched recess/gravity lock groove (72) for engaging/attaching a notched blade scoop means thereon wherein the scoop means having a scooping end, a handle end comprising a hook portion wherein the hook portion having two edges that are non-parallel to one another and the hook portion is engaged to the notched recess/gravity lock groove such that the handle end is elevated above the scooping end (see Figure 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the box of Thaler et al. so as to include an enclosure having a notched recess/gravity lock means for engaging/attaching a notched blade scoop means thereon, in a similar manner as taught in Walter, since to do so would provide a secondary cleaning means in case the rake is defected.

Allowable Subject Matter

12. Claims 14-20 are allowed.

Response to Arguments

13. Applicant's arguments filed 9/12/05 have been fully considered but they are not persuasive.
14. Applicant argues that Thaler et al. do not disclose the limitations as claimed in claims 1, 2, 5, 8-10, the Examiner disagrees. Applicant is referred to paragraphs #7 & 8 above for further explanation.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Trinh T Nguyen
Primary Examiner
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